

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TERESA L. BEDELL,

Plaintiff,

v.

MICHAEL J ASTRUE, Commissioner of
Social Security,

Defendant.

Case No. C11-621-RSM

**ORDER REVERSING AND
REMANDING CASE FOR
FURTHER ADMINISTRATIVE
PROCEEDINGS**

The Court, after careful consideration of the plaintiff's complaint, the parties' briefs, the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge, the objections filed by both parties, and the balance of the record, adopt the Report and Recommendation in part.

The Magistrate Judge correctly found that the ALJ committed legal error by failing to properly address the opinion of non-examining doctor Alfred Scottolini, as well as failing to address Ms. Bedell's sitting and standing limitations. However, the Magistrate Judge recommended affirmance of the Commissioner's decision in all other aspects, including the ALJ's rejection of the opinion of treating physician Karl Johnson as well as discounting the credibility of Ms. Bedell and the lay testimony of her mother, Elizabeth Butterfield. Both Plaintiff and Defendant object and request that this Court address the other issues. The Court declines to do so.

1 Because the matter is being remanded to the ALJ, and given the complex and interrelated nature
2 of plaintiff's claims, it would be premature to partially affirm as recommended by the Magistrate
3 Judge. As the Magistrate Judge concluded when he addressed the ALJ's errors with respect to Dr.
4 Scottolini's opinion;

5 Here the impact of the limitation noted by Dr. Scottolini is unknown. Perhaps the
6 limitation would make no difference to the opinion previously rendered by the
7 vocational expert here or to the ALJ's ultimate determinations, or perhaps it would
8 have a significant impact on the ALJ's disability determination; but that is for the
Commissioner to develop and address on remand, not for this Court to decide in
the first instance on review.

(Report and Recommendation at 13)

9 The same reasoning applies to the other issues raised by Ms. Bedell, especially in light of the
10 fact that this matter is being sent back on remand. The Court does not take a position on any of
11 these issues at this time but leaves it up to the ALJ to fully consider all of the issues and make a
12 proper record if they become relevant after reconsidering Dr. Scottolini's opinions. Therefore, the
13 Court hereby finds and ORDERS:

- 14 (1) The Court adopts the Report and Recommendation, in part, as set out above.
- 15 (2) The Commissioner's decision is **REVERSED** and the case is **REMANDED** to
16 the Social Security Administration for further proceedings.

17 The Clerk is directed to send copies of this Order to the parties and to Judge Brian A.
18 Tsuchida.

19 DATED this 18 day of September 2012.

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RICARDO S. MARTINEZ
UNITED STATES DISTRICT JUDGE